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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/777,304  | 02/06/2001  | Casey S. Pontenzone  | 7957-055            | 5699             |
| 5514  | 7590        | 07/24/2006           | EXAMINER            |                  |
| FITZPATRICK CELLA HARPER & SCINTO<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |             |                      | NGUYEN, QUANG N     |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2141                |                  |

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/777,304

Applicant(s)

PONTENZONE ET AL.

Examiner

Quang N. Nguyen

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/6/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Detailed Action***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/10/2006 has been entered.

Claims 1 and 22 have been amended. Claims 1-25 remain pending.

***Written Restriction***

2. A telephone call was made to the Applicant's Representative, Mr. Frank A. Delucia (Reg. No. 42,476) on 07/18/2006 to request an oral election to the below restriction requirement, but did not result in an election being made.

3. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

4. Applicant is reminded that upon the cancellation of claims to non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

5. Restriction to one of the following inventions is required under 35 U.S.C 121:

**Group (A):** Claims 1-8 are drawn to a computer system for distributed data processing in a client/server environment (*i.e., at least one of stations includes two or more playlists and only one of said two or more playlists specifies the content that may be delivered by that station at any one time over the network and wherein the user may add content to at least one of the two or more playlists associated with the at least one station*), classified in class 709, subclass 203.

**Group (B):** Claims 9-14 are drawn to a computer system for accessing a remote server (*i.e., requesting a specific new piece of content not currently described by information stored in a database as recited independent claim 9*), classified in class 709, subclass 219.

**Group (C):** Claims 15-19 are drawn to a computer system for network resources access controlling (*i.e., controlling/limiting access privileges of users in first and second user categories as recited in independent claim 15*), classified in class 709, subclass 229.

**Group (D):** Claims 20-25 are drawn to a computer system for network resource allocating (*i.e., assigning song content into supergenre and genre categories, each genre categories being assignable to one supergenre category, each artist and each station is also assignable to any number of genres as recited in independents claims 20 and 22*), classified in class 709, subclass 226.

6. Inventions of Groups A-D are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention **Group (A)** is directed to a computer system for distributed data processing in a client/server environment, invention **Group (B)** is directed to a computer system for accessing a remote server, invention **Group (C)** is directed to a computer system for network resources access controlling, and invention **Group (D)** is directed to a computer system for network resource allocating. Therefore, inventions Groups A-D have different functions as well as effects. See MPEP § 806.05(d).

7. The inventions are distinct for each other because of the following reasons:

a. These inventions have acquired a separate status in the art as shown by their different classification and their recognized divergent subject matter.

b. The search required for one Group is not required for the other Group.

For the reasons above, the restriction for examination purposes as indicated is proper.

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8. Applicant is advised that the reply to this requirement must be submitted within 30 calendar days, not one month.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Nguyen Q', with a long, sweeping horizontal stroke extending to the right.

QNN – AU2141  
Patent Examiner